

Message Text

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ACTION EB-06

INFO OCT-01 EUR-08 ISO-00 ABF-01 SS-15 L-01 A-01 INR-05

OES-03 RSC-01 /042 W

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R 241731Z OCT 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC 5880

INFO AMEMBASSY LONDON

AMCONSUL FRANKFURT

LIMITED OFFICIAL USE SECTION 01 OF 02 BONN 16775

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E.O. 11652: N/A

TAGS: ESTC, EGEN, GW

SUBJECT: EAST-WEST TRADE - GAO REVIEW

REF: STATE 230263

1. IN RESPONSE TO REF QUESTIONS EMBASSY COMMERCIAL OFFICER HELD INFORMAL DISCUSSION WITH COCOM DESK OFFICER OF FRG ECONOMICS MINISTRY. ANSWERS BELOW ARE KEYED TO REF QUESTIONS.

(3) OFFICIAL COULD NOT QUOTE SPECIFIC FIGURES FOR COMPLIANCE CASES, HOWEVER HE ESTIMATED THAT NUMBER DURING 1974 WOULD EXCEED PREVIOUS YEAR'S TOTAL BY AT LEAST 30 PERCENT, AND WOULD BE TWICE AS MANY AS IN 1972. DESPITE INCREASED WORKLOAD COCOM CASES STILL BEING PROCESSED BY SMALL MINISTRY STAFF AND NO EXPANSION OF INTERNAL BUDGET ANTICIPATED. OFFICIAL ASSUMED THAT CONTINUED LIBERALIZATION OF EAST-WEST TRADE WOULD FURTHER INCREASE COCOM COMPLIANCE AND NON-COMPLIANCE ACTIVITY.

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(4) THE MONITORING AND REGULATION OF EAST-WEST

TRADE IS RESPONSIBILITY OF THE COCOM UNIT IN THE ECONOMICS MINISTRY WHICH WORKS CLOSELY WITH TRADE PROMOTION UNITS ALSO WITHIN ECONOMICS MINISTRY. TO ASSIST IN FIRM COMPLIANCE WITH EAST-WEST TRADE RESTRICTIONS THERE IS USUALLY ESTABLISHED A JOINT COMMISSION OF INDUSTRY AND GOVERNMENT REPS WHICH SERVES AS A CONTACT POINT BETWEEN MANUFACTURER AND EAST BLOC ENDUSER. OFFICIAL INSISTED THAT THERE NO ACTUAL DISHARMONY WITHIN ECONOMICS MINISTRY OFFICES INVOLVED IN EAST-WEST TRADE; THUS NONE HAS PRIORITY IN PROCEEDINGS.

(5) THE INTERNATIONAL EMBARGO LISTS AND FOREIGN TRADING REGULATIONS IN FRG LAW PERMIT THE GOVERNMENT TO REQUEST NECESSARY INFORMATION FROM PRIVATE FIRMS ON THEIR COMMERCIAL ACTIVITIES IN EASTERN COUNTRIES.

(8) FRG AGENCY RESPONSIBLE FOR LICENSING EXPORTS, BUNDESAMT FUER GEWERBLICHE WIRTSCHAFT (BGW), AN AGENCY OF ECONOMICS MINISTRY, RECEIVES FULL DETAILS OF NATURE, SCOPE AND FINANCING OF ALL PROPOSED TRANSACTIONS BETWEEN WEST GERMAN FIRMS AND BLOC COUNTRIES. SHOULD THERE APPEAR TO BE QUESTION FOR COCOM COMPLIANCE, EXPORT LICENSE APPLICATION AND ALL SUPPORTING MATERIAL WOULD BE FORWARDED TO MINISTRY IN BONN FOR OPINION.

(9) IT IS UP TO THE FIRM WHETHER IT SEEKS EXPORT LICENSE FROM BGW BEFORE OR AFTER THE FORMAL SUBMISSION OF SALES PROPOSALS INVOLVING REGULATED ITEMS. HOWEVER, IT IS IN FIRM'S BEST INTEREST TO OBTAIN LICENSE IN ADVANCE IN ORDER TO AVOID EXPENSE

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R 241731Z OCT 74

FM AMEMBASSY BONN
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OF MAKING SALES PROPOSAL WHICH COULD BE NEGATED BY
INABILITY TO OBTAIN LICENSE.

(10) BGW MONITORS TECHNOLOGY AND SCIENTIFIC
AGREEMENTS BETWEEN PRIVATE FIRMS AND EASTERN COUNTRIES
TO EXTENT THAT THERE IS AN "EXPORT" OF KNOW-HOW,
HARDWARE, PATENTED PROCESSES OR SYSTEMS. ACTUAL
ENFORCEMENT OF CONTROL REMAINS DIFFICULT IN THAT
DEFINITION OF KNOW-HOW AND EXTENT TO WHICH A PROCESS
OR SYSTEM REPRESENTS NEW TECHNOLOGY SUBJECT TO
DIFFERING INTERPRETATIONS.

(11) AS IN ABOVE QUESTION, BGW IN DIFFICULT
POSITION OF DETERMINING WHAT IS A TECHNOLOGY TRANSFER.
BY LAW, SUCH TRANSFERS REQUIRE EXPORT AUTHORIZATION
AND BGW LICENSING; HOWEVER, IN PRACTICE ENFORCEMENT
COMES INTO PRACTICE ONLY WHEN A SALE OF A COMMODITY
IS INVOLVED.

(12) THE AGENCY PERFORMS NO ROLE IN ENFORCING
LICENSE APPLICATIONS FOR REEXPORT OF US ORIGIN
COMPONENTS IN NATIONAL PRODUCTS VIEWING THIS ASPECT
OF EXPORT CONTROL AS A STRICTLY INTERNAL AMERICAN
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MATTER. IF A COCOM-CONTROLLED SUB-UNIT IS USED IN A
FINISHED PRODUCT DESTINED FOR AN EASTERN ENDUSER, BGW
CONSIDERS IT THE RESPONSIBILITY OF THE AMERICAN FIRM
TO DETERMINE THE ULTIMATE ORIGIN OF ITS PRODUCT AND
ENSURE THAT THIS ORIGIN IN NO WAY CONTRAVENES AMERICAN
EXPORT RESTRICTIONS.

2. DEPARTMENT DRAFT RESPONSES TO REMAINING QUESTIONS
AS QUOTED IN REF APPEAR TO BE ACCURATE AND ADEQUATE.
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